

DCI/IC 76-3708

MEMORANDUM FOR: Director of Central Intelligence

FROM : Admiral Daniel J. Murphy, USN
Deputy to the DCI for the Intelligence
Community

SUBJECT : DCID No. 1/19, "Nondisclosure Agreements
for Intelligence Sources or Methods
Information"

1. Attached to this memorandum (Tab A) is a proposed DCID for the implementation of Executive Order 11905, Section 7(a), requiring nondisclosure agreements for intelligence sources and methods information. A previous draft of the proposed DCID was circulated to NFIB on 27 May 1976, and subsequently was remanded to the Security Committee for further consideration. Comments on the proposed new draft as provided by Mr. Lapham, CIA General Counsel, are at Tab B.

2. Recommended changes have been incorporated in this new draft and are identified by underlinement. Even so, there are still major areas of dissent identified below:

(a) Scope of material covered: The State and DoD members of the Security Committee recommend that the agreement apply only to classified sources and methods. The DIA position is that while neither the DCI's statutory responsibility to protect sources and methods nor Executive Order 11905 speak specifically of "classified" sources or methods, that this is clearly implied. The CIA wishes to omit reference to the classification since there is no justification for administratively limiting this statutory responsibility to only those sources and methods which are classified. By segregating the concepts of classification and sources and methods protection, alternate mechanisms for accomplishing the protection requirement are preserved.

(b) Definition of sources and methods: The Director of NSA found the DCID lacking in that it did not define sources or methods information. The CIA member feels that including such a definition would add the burden of proving in each instance that a case in point falls within the definition.

(c) Labeling requirements: NSA commented that the use of the proposed marking "Warning Notice - Sensitive Intelligence Sources and Methods Involved" is inappropriate and recommends that "Sensitive" be dropped. At the present time, the National Security Council Directive implementing Executive Order 11652 requires the use of this marking. This matter was discussed with the NSC staff and they will undertake to propose this to the NSSM 229 group. If such is accepted, then "Sensitive" could be eliminated at that time.

(d) Exempting COMINT materials: Because NSA was concerned that inadequate consideration was given to the special situation as regards COMINT, it is now proposed that it be exempt from the labeling requirements prescribed in this DCID. CIA notes that the NSC Directive implementing Executive Order 11652 requires that all intelligence sources and methods information bear the warning notice, therefore, neither COMINT, nor other sensitive compartmented information should be exempt.

3. With your approval the attached draft DCID will be placed on an NFIB agenda.

Daniel J. Murphy

Attachments

APPROVED:

Director of Central Intelligence

Date

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